

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0086R

IN THE MATTER OF THE APPLICATION OF THE CITY OF ARVADA FOR AUTHORITY TO CONSTRUCT A TEMPORARY AT-GRADE RAIL CROSSING AND PERMANENT GRADE-SEPARATED CROSSING AT THE UNION PACIFIC TRACKS AT WEST 72ND AVENUE IN ARVADA, COLORADO, AUTHORITY TO REMOVE THE EXISTING AT-GRADE CROSSING AT THE UNION PACIFIC TRACKS AT WEST 72ND AVENUE IN ARVADA, COLORADO, AND REQUEST FOR COST ALLOCATION OF A GRADE-SEPARATED CROSSING PURSUANT TO PUBLIC UTILITIES COMMISSION RULE 7207.

**INTERIM DECISION SETTING DEADLINE FOR MOTION
TO OBJECT, ADOPTING PROCEDURAL SCHEDULE,
SCHEDULING REMOTE EVIDENTIARY HEARING, AND
PROVIDING INSTRUCTIONS TO PARTICIPATE IN
HEARING**

Issued Date: June 20, 2025

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I. STATEMENT, SUMMARY, AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision sets a deadline for intervenor Union Pacific Railroad Company (“Union Pacific”) to object to the preliminary approval of the City of Arvada’s (“Arvada”) initial application, adopts a procedural schedule, schedules a remote evidentiary hearing, and provides instructions for parties to participate in the hearing.

B. Relevant Procedural History

2. On February 26, 2025, Arvada initiated this matter by filing the above-captioned Application (“Initial Application”). Arvada requests authority to construct a temporary at-grade crossing, remove the existing at-grade crossing, construct a permanent grade separation underpass, and request cost allocation of the permanent grade separated underpass pursuant to Rule 7207 of the Commission’s Rules Regulating Railroads, Rail Fixed Guideways, Transportation by Rail, and Rail Crossings, 4 *Colorado Code of Regulations* (“CCR”) 723-7.

3. On March 4, 2025, the Public Utilities Commission (“Commission”) provided public notice of the Initial Application, per § 40-6-108(2), C.R.S. The Notice also required that interventions be filed no later than 30 days from the date of the notice.¹

4. On April 3, 2025, Union Pacific filed an Entry of Appearance, Notice of Intervention, and Opposition (“Intervention”). Union Pacific opposes and contests the Initial Application “on the basis that it seeks a cost allocation of 50% of the theoretical structure cost with [Union Pacific].”²

¹ See Notice at pg. 1.

² Intervention at pg. 1.

5. On April 18, 2025, by Decision No. C25-0306-I, the Commission deemed the Initial Application complete and referred the matter to an Administrative Law Judge (“ALJ”) for a determination of the merits of the Application and to obtain additional information regarding information missing from the Application.³ In the same decision, the Commission acknowledged Union Pacific’s Intervention.⁴

6. The parties participated in a remote prehearing conference on June 11, 2025. The parties discussed several issues, including but not limited to, deadlines for Union Pacific to provide necessary information to Arvada, and for Arvada to amend its Initial Application after receiving such information. In addition, the parties discussed procedural deadlines and hearing dates.

II. FINDINGS, ANALYSIS, AND CONCLUSIONS

A. Procedural Schedule

7. The parties agreed to the following procedural schedule:

Procedural Activity	Date
Union Pacific Motion objecting to preliminary approval of Initial Application	June 20, 2025 ⁵
Arvada response to Motion objecting to preliminary approval of Initial Application	June 26, 2025
Finalized plan sets from Union Pacific to Arvada and Union Pacific to file certification of this in e-filing	July 16, 2025
Arvada to file Amended Application	July 23, 2025

³ See Decision No. C25-0306-I at pgs. 3-4.

⁴ *Id.* at pg. 4.

⁵ The parties discussed June 19, 2025 as the deadline, but that is Juneteenth.

Procedural Activity	Date
Optional Supplemental Direct Testimony	July 30, 2025
Answer Testimony	August 13, 2025
Rebuttal Testimony	August 27, 2025
Non-Testimonial Exhibits	September 10, 2025
Exhibit and Witness List Exchange	September 10, 2025
Corrections to Pre-Filed Testimony and Exhibits	September 10, 2025
Prehearing Motions	September 17, 2025
Stipulations/Settlement Agreements	September 17, 2025
Cross-Examination Matrix	September 17, 2025
Settlement Testimony	September 22, 2025
Responses to Prehearing Motions	September 24, 2025
Virtual Hearing Date	September 29-30, 2025
Statements of Position	TBD

III. REMOTE HEARING

8. Based on the flexibility it affords the parties and their witnesses, the evidentiary hearing in this matter will be held in a remote format. A remote hearing is where the parties and ALJ appear remotely. The hearing will be scheduled for **September 29-30, 2025**, at 9:00 a.m.

daily as ordered below. A webcast of the proceedings will be available to the public through the Commission's website.

9. This Decision, Attachment A, and Attachment B provide important information and instructions to facilitate holding the remote hearing, which all parties must follow. This includes, but is not limited to, following Attachment B's requirements regarding parties' requirements to: include the title of or a brief description of attachments to exhibits in exhibit lists; title attachments to exhibits to include the title or description of the document (*i.e.*, the substantive nature of the attachment) and not just the exhibit and attachment number (*i.e.*, Hearing Exhibit 101, Attachment ABC-1 instead of Hearing Exhibit 101, Attachment ABC-1, Map); follow procedures for exhibits and attachments that include confidential or highly confidential information; and follow identification requirements for revised exhibits or attachments thereto.

10. The procedures developed for the remote evidentiary hearing are intended to replicate, as practicable, evidence presentation as it occurs when parties and witnesses are present in the hearing room. For example, participating by video conference allows parties and witnesses to view exhibits on the video conference screen while the exhibits are being offered into evidence and witnesses testify about them.

11. The remote evidentiary hearing will be conducted via video conference using the Zoom platform. Attachment A to this Decision provides information about the Zoom platform and how to use Zoom to participate in the remote hearing. To minimize the potential that the hybrid hearing may be disrupted by non-participants, the link and meeting ID, or access code to attend the hearing will be provided to the parties by email approximately one week before the hearing

and the parties and witnesses will be prohibited from distributing that information to anyone not participating in the hearing.

12. At the hearing, the parties may call witnesses, present evidence, and make arguments in support of their position. Evidence includes documentary exhibits, testimony, and other tangible items that a party wishes the ALJ to consider in reaching a decision as to the allegations in this proceeding. Given that the hearing will require remote participation by video conference, exhibits must be presented electronically.

13. The Commission's Administrative Hearings Section uses box.com to receive and manage exhibits that are first presented in this type of hybrid evidentiary hearing.⁶ As such, it is essential that the parties ensure they can access and use box.com prior to the evidentiary hearing. To this end, the parties will be provided box.com links and instructions to: (a) upload exhibits for use during the hearing; and (b) download exhibits once they are presented during the hearing.

14. Each party must: (a) pre-mark all hearing exhibits with a hearing exhibit number within their assigned number block before uploading the exhibits to the party's designated box.com folder; (b) sequentially page-number each page of exhibits longer than two pages, with the first page number as page 1, regardless of content, before uploading the exhibits to the party's designated box.com folder; and (c) upload all pre-marked exhibits into each party's respective designated box.com folder prior to the presenting them during the hearing.

15. Attachment B outlines procedures and requirements for marking and formatting exhibits aimed at facilitating efficient and smooth electronic evidence presentations at the remote

⁶ Box.com is a web-based document sharing service. When exhibits are first presented during the hearing, the Commission will receive them electronically from each party's box.com folder for display.

hearing. It is very important that the parties carefully review and follow all requirements in this Decision and Attachments A and B.

16. To efficiently organize the numbering and preparation of exhibits for the hearing, the parties shall use a unified numbering system for all hearing exhibits. Blocks of hearing exhibit numbers are assigned as follows:

- Arvada is assigned hearing exhibit numbers 100 to 199; and
- Union Pacific assigned hearing exhibit numbers 200 to 299.

17. The parties are advised and are on notice that this proceeding is governed by the Rules of Practice and Procedure found at 4 CCR 723-1. The ALJ expects the parties to be familiar with and to comply with these rules. The rules are available on the Commission's website (<https://puc.colorado.gov/pucrules>) and in hard copy from the Commission.

18. Each party is specifically advised that all filings with the Commission must also be served upon all other parties in accordance with Rule 1205 of the Rules of Practice and Procedure, 4 CCR 723-1.

19. The parties are on notice that, consistent with Commission practice, friendly cross-examination will not be permitted during the evidentiary hearing.

IV. **ORDER**

A. It Is Ordered That:

1. A fully remote evidentiary hearing on the above-captioned Application is scheduled as follows:

DATE: September 29 and 30, 2025

TIME: 9:00 a.m. each day

PLACE: By videoconference using Zoom.

2. The parties are responsible for sharing the link, meeting ID code, and passcode with witnesses and others participating in the hearing. Participants in the hearing may not distribute the link, meeting ID code, and passcode to anyone not participating in the hearing.

3. All parties must comply with the requirements in Attachments A and B to this Decision, which are incorporated into this Decision as if fully set forth herein.

4. Non-participants in the evidentiary hearing may observe the hearing live through the Commission's webcast for the Hearing Room assigned for each of the above hearing dates, which may be accessed at this link: <https://puc.colorado.gov/webcasts>.

5. **Motion to Object to Preliminary Approval Deadline.** Union Pacific Railroad Company ("Union Pacific") must file and serve its motion objecting to preliminary approval of the City of Arvada's ("Arvada's") initial Application by June 20, 2025.

6. **Response to Motion Deadline.** Arvada must file and serve its response to Union Pacific's motion objecting to preliminary approval of its initial Application by June 26, 2025.

7. **Finalized Plan Sets Deadline.** Union Pacific must provide Arvada complete finalized plan sets, and e-file a certification of providing the complete finalized plan sets, by July 16, 2025.

8. **Amended Application Deadline.** Arvada must file and serve its Amended Application by July 23, 2025.

9. **Optional Supplemental Direct Testimony Deadline.** Arvada must file and serve any supplemental direct testimony in support of the Amended Application by July 30, 2025.

10. **Answer Testimony Deadline.** Union Pacific must file and serve its answer testimony by August 13, 2025.

11. **Rebuttal Testimony Deadline.** Arvada must file and serve its rebuttal testimony by August 27, 2025.

12. **Deadline for Non-Testimonial Hearing Exhibits.** By September 10, 2025, the parties must file and serve any non-testimonial hearing exhibits that they plan to offer into evidence (i.e., exhibits that are not written testimony). The parties are not required to pre-file and serve hearing exhibits which may be used solely for impeachment, to refresh recollection, or for rebuttal. The parties are on notice that if they do not prefile an exhibit for any of these reasons, they must establish at hearing that the exhibit is being used for impeachment or to refresh recollection consistent with the requirements of Rules 612 and 613 of the Colorado Rules of Evidence, or for rebuttal. Any party may use any other party's hearing exhibits during the hearing and should not file them separately.

13. **Exhibit and Witness List Exchange Deadline.** By September 10, 2025, the parties must file and serve complete exhibit and witness lists. Witness lists must include a brief description

of the witnesses' anticipated testimony and the witnesses' contact information. Exhibit lists must identify the hearing exhibit and attachment number, the full title of each hearing exhibit and attachment thereto and include a brief description of each hearing exhibit and attachment thereto that the party intends to offer into evidence during the evidentiary hearing. Describing an exhibit or attachment solely by identifying the exhibit or attachment number does not meet this requirement.

14. **Corrections, Modifications, and Amendments to Testimonial Exhibits Deadline.** By September 10, 2025, the parties must file and serve any corrected, modified, or amended testimonial exhibits and attachments thereto. Such filings must comply with the specific requirements in Attachment B relating to corrected, modified, or amended testimonial exhibits and attachments. The parties may make corrections to testimonial exhibits and attachments thereto without filing a motion seeking leave to do so. Corrections include minor changes, such as fixing typographical or formatting errors. Corrections do not include material or substantive changes. Material or substantive changes to a testimonial hearing exhibit or attachment thereto amount to amending or modifying such documents. Any party wishing to amend or modify a testimonial exhibit or attachment thereto must file a motion establishing good cause; such a motion must be filed as soon as the party becomes aware of the need to amend or modify the filing. The parties must confer with each other prior to filing such a motion. Unreasonable delay in filing such a motion is grounds to deny the motion.

15. **Prehearing Motions Deadline.** The parties must file and serve any prehearing motions by September 17, 2025.

16. **Deadline for Joint Witness Examination Matrix.** By September 17, 2025, the parties must file a joint witness examination matrix listing all the witnesses the parties anticipate will testify at the hearing and the anticipated amount of time each party will use to examine the witnesses. To the extent practicable, the witnesses should be listed in the order in which they will be called. The parties also must assume that the Administrative Law Judge (“ALJ”) will use some time to examine witnesses.

17. **Deadline for Stipulations and Settlement Agreements.** The parties must file and serve any stipulations and settlement agreements by September 17, 2025.

18. **Deadline for Settlement Testimony.** The parties must file and serve testimony in support of or in response to any settlement agreement that is filed by September 22, 2025.

19. **Responses to Prehearing Motions Deadline.** The parties must file and serve any responses to prehearing motions by September 24, 2025. Replies to motions will not be allowed.

20. **Deadline for Statements of Position.** At the conclusion of the hearing, the ALJ will establish the deadline for the parties to file and serve Statements of Position.

21. **Hearing Exhibit Number Block Assignments.** To efficiently organize exhibits that will be presented during the evidentiary hearing, all parties must use a unified numbering system for all hearing exhibits, consistent with the directions in Attachment B, using hearing exhibits within their assigned exhibit number blocks. The parties are assigned the following hearing exhibit numbers:

Party	Assigned Hearing Exhibit Numbers
Arvada	100 to 199
Union Pacific	200 to 299

22. **Obligation to Review Hearing Spreadsheet.** The parties must review the hyperlinked spreadsheet (distributed to them prior to the hearing) that will be used during the hearing to electronically present exhibits and confirm that it correctly includes all the exhibits that they intend to offer into evidence during the hearing.

23. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

KELLY A. ROSENBERG

Administrative Law Judge

ATTEST: A TRUE COPY

Rebecca E. White,
Director